

SUMMARY ANALYSIS OF AMENDED BILL

Author: Torrico Analyst: Matthew Cooling Bill Number: AB 1508
 Related Bills: See Prior Analysis Telephone: 845-5983 Amended Date: May 4, 2009
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Public School Or Vocational Institution Math Or Science Teacher Lending Credit Defensible Space Deduction

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended April 16, 2009.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

X OTHER – See comments below.

SUMMARY

This bill would allow, a tax credit for certain expenses related to lending an employee to a public school to assist in teaching, as specified.

SUMMARY OF AMENDMENTS

The May 4, 2009, amendments would do the following:

- Amend the amount of the credit to equal 25 percent of the qualified expenses,
- Redefine “qualified expenses,”
- Require the school district governing board to certify that the taxpayer’s employee is qualified to assist in the teaching of mathematics or science,
- Remove the school’s responsibility to certify that an eminence credential is issued to the taxpayer’s employee,
- Limit the credit to the amount of charitable contributions made by the taxpayer to the school,
- Add a sunset date, and
- Make a technical change regarding the expenses used to calculate the credit.

Board Position:

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Asst. Legislative Director

Date

Patrice Gau-Johnson

05/11/09

As a result of the amendments, some of the implementation considerations in the department's analysis of this bill as amended April 16, 2009, have been resolved; an additional implementation consideration has been identified and is included in the discussion. These amendments also resolved one of the department's technical considerations by correcting a drafting error related to the charitable donations. The remaining concerns are listed below for convenience.

Because the May 4, 2009, amendments are substantive, the department's analysis of this bill as amended April 16, 2009, has been significantly revised, which includes the "Effective/Operative Date," "This Bill," "Implementation Considerations," "Technical Considerations," and "Economic Impact" discussions. Except for the discussions listed here, the remainder of our analysis of this bill as amended April 16, 2009, still applies.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2010, and before January 1, 2013.

POSITION

Pending.

ANALYSIS

THIS BILL

This bill would allow a credit equal to 25 percent of qualified expenses paid or incurred and related to an employer (taxpayer) lending a qualified employee to a Title I public school to assist in the teaching of mathematics or science.

This bill would define the following:

- "Qualified expenses" would mean:
 - ◆ The expenses paid by the taxpayer associated with assisting in the teaching of mathematics and science at a Title I public school, limited to expenses for teaching supplies, materials, and equipment, and
 - ◆ Expenses paid or incurred by the taxpayer for wages paid to an employee for time spent in a classroom assisting in the teaching of mathematics and science at a Title I public school.
- "Qualified employee" would mean an employee whose employment specialty includes the areas of mathematics or science, as specified.
- "Title I public school" would mean any high school in California that is part of a public school district and at least 40 percent of its students come from low-income families.

- “Mathematics” would mean instruction that will develop students in the areas of mathematical reasoning and problem solving, which includes, but is not limited to, courses in algebra I, algebra II, linear algebra, calculus, geometry, trigonometry, mathematical analysis, probability and statistics, and advanced probability and statistics.
- “Science” would mean instruction that promotes development of the skills and procedures used in problem solving and recognition, data collection through observation and experimentation, and the formulation and testing of hypotheses. “Science” includes, but is not limited to, courses in biology, life science, physical science, physics, chemistry, and others.

For a taxpayer to receive the credit, the school district governing board would have to certify by resolution that the employee is qualified to assist in the teaching of mathematics and science. This resolution would have to be made before the employee begins assisting in the classroom. In addition, the Title I public school would have to issue a service record to the taxpayer that would certify the number of hours that the employee assisted in teaching the qualified courses. The service record would certify that no teacher currently employed by the school would be replaced by one of these teacher assistants, and the taxpayer would have to make charitable contributions, which include, but are not limited to, classroom materials, resources, equipment, or facilities.

The maximum amount of the credit allowable would be limited to the amount of charitable contributions made to the school for that taxable year by the taxpayer. This bill would allow a credit carryover for eight years. No other deduction would be allowed for the amount of any qualified expenses for which this credit is allowed.

This bill would also require the Legislative Analyst’s Office (LAO) to submit a report to the Legislature on the usage of this credit. The report would evaluate the tax credit allowed by this bill and contain information including, but limited to, the number of taxpayers utilizing the credit, the identity of those taxpayers, and the total dollar amount of tax credits issued per year. This report would have to be submitted by LAO by November 1, 2012.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill uses the term “employment specialty” but does not define this term. An absence of a definition for this term could lead to disputes between the department and taxpayers. It is recommended that the author amend the bill to define “employment specialty.”

The definitions for the terms “mathematics” and “science” in this bill could lead to disputes between the department and taxpayers because both terms are defined to mean instruction designed to develop a particular skill set, as specified, and both definitions include a broad range of subject areas. It is recommended that the author amend the definition of “mathematics” and “science” to clarify that “mathematics” and “science” are specifically defined by instruction in specified subject areas. In addition, to clarify the definitions of “mathematics” and “science,” the author may wish to look to the Content Standards for Mathematics¹ and Science² adopted by the California State Board of Education in 1997 and 1998, respectively.

This bill defines the term “Title I public school” as a high school where 40 percent of the students come from low-income families or that 40 percent of the students come from families eligible to receive federal Title I funds. This could lead to confusion between federal Title I schools and the schools labeled Title I under this bill. It is recommended that the author define Title I public school as any high school that is classified a Title I school under Title 20 of the United States Code, sections 6301 to 6339 and sections 6571 to 6578.

This bill would require LAO to submit a report to the Legislature regarding the usage of this credit by November 1, 2012. It is unclear if the report would contain the usage information for each calendar year, fiscal year, or all years for which the credit is operative. Because some taxpayers can elect to begin a taxable year on any date, the Franchise Tax Board would be able to provide a report to LAO on the usage of the credit only for the 2010 tax year by the specified deadline, November 1, 2012. The author may wish to revise this provision to allow LAO’s report to be submitted by November 1, for each calendar year in which the credit is operative.

TECHNICAL CONSIDERATIONS

Amendments 1 and 4 have been provided to clarify that the wages treated as qualified expenses are California wages subject to withholding in this state.

The author’s office has indicated that the charitable contributions in excess of qualified expenses would be a prerequisite to receiving this credit and the amount of those contributions would limit the amount of the credit. Amendments 2, 3, 5, and 6 have been provided to address these concerns.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

¹ Mathematics Content Standards: <http://www.cde.ca.gov/be/st/ss/documents/mathstandard.pdf>

² Science Content Standards: <http://www.cde.ca.gov/be/st/ss/documents/sciencestnd.pdf>

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1508 Assumed Enacted After June 30, 2009 Effective and Operative On or After January 1, 2010, And Before January 1, 2013				
2009-10	2010-11	2011-12	2012-13	2013-14
-\$30,000	-\$100,000	-\$140,000	-\$110,000	-\$10,000

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Revenue Discussion

Revenue losses would depend on the amount of qualified expenses incurred by taxpayers in connection with lending qualified employees to California Title I public high schools for assisting in the teaching of mathematics or science classes; the amount of charitable contributions by taxpayers of classroom materials, resources, equipment, or facilities; and the amount of credits that can be applied to tax liabilities. This estimate is based on available information pertaining to mathematics and science teachers in California public high schools.

According to the California Department of Education, the total number of mathematics and science teachers in California public schools was approximately 24,000 full time equivalents during the 2007-08 school year. Title I high school staffing represents 18 percent of all high school staffing, which would bring the number of mathematics and science teachers to approximately 4,300 (24,000 teachers X 18% in Title I schools).

It would be assumed that employees loaned by taxable employers under this proposal would be 1 percent of Title I public high school certified hires, or 43 employees (4,300 X 1%). It is not known what the average salary would be of a loaned employee. For purposes of this estimate, the median yearly secondary school teaching salary of \$62,800 was used. This salary was determined by 2008 data from the Employment Development Department. If an employee assists in the teaching of one class five times a week for one semester, he would be allocating 12.5 percent of his time to assisting in teaching. Qualified expenses are estimated to be approximately \$340,000 (43 loaned employees X \$62,800 X 12.5%). Applying the proposed 25 percent to qualified expenses of \$340,000, credits generated in the first full taxable year would be approximately \$85,000 annually (\$340,000 X 25 %).

The credit would be limited to expenses paid by the employer for charitable contributions including, but not limited to, classroom materials, resources, equipment or facilities. This estimate assumes that equipment used by the loaned employee would be considered a charitable contribution, but not the amount of the loaned employee's salary. Assuming a taxpayer contributes \$5,000 per each loaned employee each school year, the contribution would be \$215,000 (\$5,000 contribution X 43 employees). Applying the 25 percent credit would yield approximately \$54,000 (\$215,000 X 25 %) credit for equipment. Because the sum of the credit for the loaned employee (\$85,000) and the credit for the equipment (\$54,000) are less than the \$215,000 contribution, employers would apply a credit of approximately \$140,000 (\$85,000 + \$54,000).

The 2009-10 fiscal year had a reduced revenue loss because it represents a partial fiscal year, as does 2012-13 when the provision expires.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1508
As Amended April 16, 2009

AMENDMENT 1

On page 2, line 26, at the end thereof insert:

For purposes of the preceding sentence, wages are limited to those wages subject to withholding under Section 13020 of the Unemployment Insurance Code.

AMENDMENT 2

On page 3, line 35, after "facilities" and before ".",
insert:

in excess of a taxpayer's qualified expenses.

AMENDMENT 3

On page 3, line 39, at the end thereof, strike "year." and
insert:

year in excess of the taxpayer's qualified expenses for that year.

AMENDMENT 4

On page 4, line 40, at the end thereof insert:

For purposes of the preceding sentence, wages are limited to those wages subject to withholding under Section 13020 of the Unemployment Insurance Code.

AMENDMENT 5

On page 6, line 8, after "facilities" and before ".",
insert:

in excess of a taxpayer's qualified expenses.

AMENDMENT 6

On page 6, line 12, at the end thereof, strike "year." and insert:
year in excess of the taxpayer's qualified expenses for that year.